



CLOSED CASE SUMMARY

ISSUED DATE: APRIL 21, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0350

Allegations of Misconduct & Director's Findings

Named Employee #1

| Allegation(s): | | Director's Findings |
|----------------|--|---------------------------------------|
| # 1 | 5.001 - Standards and Duties, 5.001-POL-10 Employees Will Strive to be Professional. | Not Sustained - Unfounded (Expedited) |

Named Employee #2

| Allegation(s): | | Director's Findings |
|----------------|--|---------------------|
| # 1 | 5.001 - Standards and Duties, 5.001-POL-10 Employees Will Strive to be Professional. | Sustained |
| # 2 | 16.090 - In-Car and Body-Worn Video, 16.090-POL-1 Recording with ICV and BWV 5. Employees Recording Police Activity. | Sustained |

Imposed Discipline

| |
|-------------------|
| Written Reprimand |
|-------------------|

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.

EXECUTIVE SUMMARY:

The Complainant alleged that Named Employee #1 (NE#1) and Named Employee #2 (NE#2) were unprofessional during a response. It was also alleged the named employees failed to notify the Complainant he was audio and video recorded.

ADMINISTRATIVE NOTE:

During its intake investigation, OPA noted the named employees failed to notify the Complainant he was being audio and video recorded. Pursuant to OPA Manual 5.4(B)(ii),¹ OPA returned the allegation to NE#1's chain of command for supervisor action, as she had no prior similar misconduct. However, since NE#2 had a sustained finding, training referral, and supervisor action for violating SPD Policy 16.090, the allegation against him proceeded to a full investigation.

OPA also found NE#1 had minimal and appropriate verbal interaction with the Complainant. Accordingly, the professionalism allegation against NE#1 was designated for Expedited Investigation. That means OPA, with the Office

¹ OPA's manual states: "Examples of cases generally classified as Supervisor Actions under OPA's classification precedent include non-intentional failures to activate body-worn video, minor driving issues, minor paperwork deficiencies with no prior similar conduct, and missed trainings **with no prior similar conduct**" (emphasis added). OPA Manual 5.4(B)(ii) fn. 39.



of Inspector General's review and agreement, believed it could reach, and issue recommended findings based solely on its intake investigation. As such, OPA only interviewed NE#1 as a witness employee.

SUMMARY OF INVESTIGATION:

An anonymous source sent OPA an online complaint. That complaint indicated the Seattle Fire Department (SFD) responded to "help a [locked-out] disabled resident into the building, which they have been here numerous times for the exact reason." It alleged the named employees also responded and chastised the resident. Further, it alleged the named employees made "degrading remarks" like "This isn't important enough to take time away from Seattle PD" and "Your story is fishy." The complaint indicated the named employees were "extremely rude and unprofessional and couldn't be bothered by helping someone," and they "harassed" the resident with "very uncomfortable and disgusting behavior."

OPA opened an investigation. During its investigation, OPA reviewed the complaint, SPD's and SFD's computer-aided dispatch data, and body-worn video. OPA also interviewed the Complainant—the locked-out building resident, NE#1, and NE#2.

BWV captured the named employees' response and encounter with the Complainant. In summary, the evidence showed:

On October 22, 2022, around 11:35 PM, SFD requested SPD's assistance with a locked-out subject—the Complainant. The named employees were dispatched to the call. SFD's CAD report described the subject as a thirty-year-old man in a wheelchair. CAD call remarks noted SFD requested SPD because the "last time [SFD] responded for this [subject], it was a DV incident."

BWV showed the named employees arrived and stayed in their cruiser while NE#1 used the mobile data terminal. SFD was there. NE#2 exited the vehicle and approached the Complainant in a wheelchair near the apartment building and SFD personnel. NE#2 asked the Complainant, "Hey man, what's the deal today?" The Complainant told NE#2 he was trying to enter the building, but his partner had his keys. NE#2 asked, "How you going to get in the apartment?" The Complainant said his apartment door was open.

NE#2 asked the Complainant, "So, you called a fire . . . the fire department? Took them out of service? Took a police unit out of service because you don't have your key?" The Complainant responded, "No. No. Why [are] you making this a big deal, bro? If you guys don't want to help me, you don't have to help me out." NE#2 replied, "Because it seems a little fishy, that's why we're making a big deal." The Complainant asked NE#2, "What [do] you mean seems a little fishy?" NE#2 responded, "Doesn't sound right." NE#2 asked for the Complainant's name and date of birth, which he provided.

NE#2 returned to the cruiser and gave NE#1 the Complainant's information. The Complainant's identity and address were confirmed, and no court orders or warrants were found.

The named employees reapproached the Complainant. The Complainant told them, "Bro...go and check, bro. I'm telling you, bro. You don't believe me (unintelligible)." The named employees entered the apartment building and went to the unit number the Complainant provided. The named employees knocked and announced their presence, but no one answered. The named employees also observed several scratches near the Complainant's door lock. NE#1



opened the door, leaned inside, and shouted, "Seattle police. Anybody inside?" No one responded or was observed in the apartment.

The named employees closed the apartment door and returned outside. NE#1 briefly spoke with the Complainant about his door damage and learned his partner's name. NE#2 told SFD in the Complainant's presence, "Did he have any medical? Anything? Or did he just call you guys to open the door?" An SFD member responded, "He just called us to open the door." The Complainant interjected, "Hey, bro. I'm paralyzed, bro. I was shot twenty times (unintelligible) last year, man." The SFD employee thanked NE#2. NE#2 replied, "Yeah," and returned to the cruiser.

The Complainant told OPA NE#2 was mad at him and had a "nasty attitude." The Complainant also said NE#2 suggested he would arrest the Complainant if he did not live in the building.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.001 - Standards and Duties, 5.001-POL-10 Employees Will Strive to be Professional

NE#1 was allegedly unprofessional.

Employees must "strive to be professional." SPD Policy 5.001-POL-10. Further, "employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers...." *Id.* Additionally, "Any time employees represent the Department or identify themselves as police officers or Department employees, they will not use...any language that is derogatory, contemptuous, or disrespectful toward any person." *Id.*

NE#1 had minimal contact with the Complainant. NE#1 appeared to stay in the cruiser during NE#2's initial contact with the Complainant. Later, NE#1 had a brief, appropriate, and professional conversation with the Complainant.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

Recommended Finding: **Not Sustained - Unfounded (Expedited)**

Named Employee #2 - Allegation #1

5.001 - Standards and Duties, 5.001-POL-10 Employees Will Strive to be Professional

NE#2 was allegedly unprofessional.

SPD Policy 5.001 provides the philosophy for employee conduct and professionalism. Employee expectations include treating people with dignity and remembering that community caretaking is, at times, the focus rather than "command and control." SPD Policy 5.001-POL. The "guiding principle" is to treat everyone with "respect and courtesy" while "guarding against an officious or overbearing attitude and refraining from language, demeanor, and actions that may cause the individual to feel belittled, ridiculed, or intimidated." *Id.*

Here, while NE#2 made no single action or statement constituting unprofessionalism, his overall demeanor demonstrated his irritation with the Complainant's call. NE#2 told OPA his conduct was intended to discourage the Complainant from making further 9-1-1 calls for nonemergency situations, like a lockout. However, NE#2 should have



found a respectful and courteous way to convey the strain the Complainant's call put on limited department resources and detracted from priority calls. Instead, in front of SFD, NE#2 used an accusatory tone to lecture the Complainant and describe his account as "fishy." That caused the Complainant to reply, "If you guys don't want to help me, you don't have to help me out." NE#2 told the Complainant he was "making a big deal about it" because the Complainant's story did not "sound right." While NE#2's disposition and line of questions appeared to suggest the Complainant did not live at the building, the stranger story would be him calling 9-1-1 to enter a building he had no authority to access. Further, while not said in the Complainant's presence, NE#2's statement after leaving the Complainant's apartment exemplified his attitude: "Calling the fire department to open the door for you? Fucking crazy."

NE#2 was the only person on the scene that appeared frustrated with the call. BWV did not capture SFD complaining or being discourteous, despite responding to the Complainant's prior lockout calls. Lockout calls were standard enough to have an SFD CAD resolution code: "RESLOC – Y – Rescue Lock-In/Out."² Moreover, while NE#2's behavior was not egregious, his discourteous behavior and history of professionalism allegations since 2020, including a sustained finding, two training referrals, and a supervisor action, warrant sustaining this allegation. See SPD Policy 5.002-POL-5(a) (Repeated minor policy violations constitute serious misconduct.)

Recommended Finding: **Sustained**

Named Employee #2 - Allegation #2

16.090 - In-Car and Body-Worn Video, 16.090-POL-1 Recording with ICV and BWV 5. Employees Recording Police Activity

NE#2 allegedly failed to advise the Complainant he was audio and video recorded.

Employees will notify people they are being recorded as soon as practical, and the notification will be on the recording. See SPD Policy 16.090-POL-1(5)(a).

Here, neither named employee advised the Complainant he was being audio and video recorded. Like Named Employee #2 – Allegation #1, NE#2 has a history of violating this policy: a sustained finding for failure to activate his in-car video, a training referral for failing to document a late BWV activation and a supervisor action for failing to activate his BWV. While this might ordinarily constitute minor misconduct, NE#2's consistent disregard elevates it to serious misconduct. Particularly where SPD policy instructs that "repeated minor policy violations" constitute serious misconduct. See SPD Policy 5.002-POL-5(a).

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**

² SFD coded the Complainant's call as RESLOC – Y – Rescue Lock-In/Out.